

REMARKS

Claims 1-73 are presently pending in the subject application. Reconsideration and withdrawal of the currently pending rejections are requested for the reasons advanced in detail below.

The claims have been amended to recite the invention more clearly. The invention, as recited in claims 1-32, relates to repo basket transactions. The invention as recited in claims 33-73 relates generally to the transfer of resources. A synthetic security (claims 1-32) or a synthetic resource (claims 33-73) is defined. Significantly, as recited in amended claim 17, for example, the synthetic security is defined without indicating specific securities. This permits a repo transaction to be negotiated and cleared before allocation of specific securities. Specific securities are then allocated, based on the synthetic security definition, after clearing.

Claims 1-73 stand rejected under 35 U.S.C. §102(b) as being anticipated by “public use” of the invention provided by references directed to Eurex documents U, V, W, X, and Y. This rejection is inappropriate for several reasons. First section 102(b) of the patent law requires prior art to be a printed publication (any country) or on sale or in public use in the United States more than one year prior to the invention. The Examiner has provided no evidence that the cited references are representative of a sale or public use in the United States. To the extent that the Examiner is relying on the publications themselves as prior art, the assertion of public use is inappropriate. For these reasons, the rejection should be withdrawn.

Assuming that the Examiner intends to rely on the cited references as printed publications, the cited references fail to teach or suggest the invention as recited in the amended claims. The Eurex documents are high-level articles and press releases describing features of various electronic services. The articles are not specific and only generally

describe a repo system including conventional settlement and risk management. The Eurex documents are directed to a repo trading system with a repo basket and a settlement system. However, the repo basket described in the Eurex documents is a list of specific securities, as is conventionally known. In such a system, trades are negotiated and cleared based on the list of specific securities that have been previously allocated. In such a system, if the specific securities become unavailable, by being sold for example, between the time of allocation and the time of a settlement process, the repo transaction cannot be completed.

The repo transaction disclosed in the Eurex documents is similar to the prior art transaction illustrated in Fig. 4 of the present application. As shown in Fig. 4, specific securities for a repo transaction are allocated to the repo basket. Subsequently, clearing of the specific securities in the transaction is accomplished in step 430 and settlement instructions are generated in step 440.

In contrast, the invention, as recited in amended claim 17 for example, defines a “synthetic security” without indicating specific securities. This novel approach to repo transactions, allows clearing to be accomplished based on the synthetic securities. Subsequent to the clearing process, specific securities that are actually available are allocated based on the basket definition. Again, the basket definition does not include a list of specific securities. Allocation is conducted in response to settlement instructions and thus the allocated securities can always be available securities. Fig. 7 illustrates an embodiment of the novel process of the invention. Note that in Fig. 7, allocation of specific securities occurs after settlement instructions have been generated. This temporal relationship of the steps provides a more reliable transaction and cannot be achieved by the prior art systems.

The Examiner asserts that Eurex describes a group of resources by constituting a definition indicating at least one class of resources. However, Applicants submit that Eurex

only describes specific securities, and does not teach a class of securities defining a synthetic security that can be used for clearing.

Each of independent claims 1, 17, 32, 33, 53, and 73 recite the use of a synthetic security or a synthetic resource. For the reasons set forth above, the prior art does not teach or suggest this limitation and thus the independent claims are allowable. Each of the dependent claims depend from one of the independent claims and are patentable for at least the same reasons as set forth above with respect to claims 1, 17, 32, 33, 53 and 73. In addition, each of the dependent claims also recites combinations that are separately patentable.

Should the Examiner believe that a telephone conference would expedite issuance of the application, the Examiner is respectfully invited to telephone the undersigned patent agent at (202) 585-8316.

Respectfully submitted,

NIXON PEABODY, LLP

/Marc S. Kaufman, Reg. No. 35,212/
Marc S. Kaufman
Registration No. 35,212

NIXON PEABODY LLP
CUSTOMER NO.: 22204
401 9th Street, N.W., Suite 900
Washington, DC 20004
Tel: 202-585-8000
Fax: 202-585-8080